

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

DAVID RAY NEAL,)	
)	
Plaintiff,)	
)	CAUSE NO. 3:02-CV-0894 AS
v.)	
)	
CECIL DAVIS, et al.)	
)	
Defendants.)	

OPINION AND ORDER

David Ray Neal, a *pro se* prisoner, filed a petition seeking leave to proceed *in forma pauperis* on appeal. Pursuant to 28 U.S.C. § 1915(a)(3), “An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” Substantively, this appeal is not taken in good faith because this case was dismissed pursuant to a joint stipulation of dismissal signed by Mr. Neal’s attorney. Procedurally, this appeal is not taken in good faith because it is untimely. Judgement was entered in this case on January 29, 2004, but the notice of appeal was not signed until 50 days later on March 19, 2004. FED. R. APP. P. 4(a)(1)(A) and 4(c) provide that a prisoner’s appeal must be deposited into the prison mail system within 30 days after judgment.

For the foregoing reasons, the court:

- (1) **DENIES** the petition for leave to proceed *in forma pauperis* (docket # 79);
- (2) **GRANTS** the plaintiff to and including July 25, 2005, within which to pay the \$255.00 appeal fee; and

(3) **ADVISES** the plaintiff that if the appeal fee is not paid by that date, this appeal may be dismissed without further notice without affecting his obligation to pay the fee in installments.

IT IS SO ORDERED.

ENTERED: June 30, 2005

s/ ALLEN SHARP

ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT